

REMARKS

Claims 39-77 were pending in the present application. Claim 39 is amended. Therefore, upon entry of this Amendment, claims 39-77 will be under examination.

Support for the amendment to claim 39 can be found, *inter alia*, on page 29, line 24 of the original specification. Therefore, this Amendment is fully supported by the specification and does not raise any issue of new matter. Accordingly, entry of the present Amendment is respectfully requested.

Applicants hereby elect, with traverse, the claims of Group I, drawn to porous material, i.e., claims 39-63, for prosecution on the merits.

Applicants respectfully point out that claim 39 is amended to recite that the "reducing agent is sterically prevented from contacting said oxidation catalyst." Applicants note that this special feature also exists in claim 64. Thus, this common special feature links claims 39-63 of Group I and claims 64-77 of Group II.

Moreover, this common special feature is not anticipated or rendered obvious by any of U.S. Patent Nos. 5,665,321, 5,702,675 and 6,294,141, and it provides unity of invention for claims of Group I and Group II. Therefore, the restriction requirement is improper.

In addition, it is far from clear that searching all the claims constitutes an undue burden on the office, especially when the claims of Group I and Group II are closely related. Applicants respectfully point to M.P.E.P. §803 which states that in order to maintain a proper Restriction Requirement, the Patent Office has to show that "searching the additional invention must constitute undue burden on the Examiner if restriction is not required." The M.P.E.P. directs the Examiner to search and examine the entire application "if the search and examination of an entire application can be made without serious burden, even though it includes claims to distinct or independent inventions."

In this case, a search of porous material which sterically prevents reducing agent from contacting oxidation agent will encompass both the claims of Group I and the method for the

Application No.: 09/581,333

searching all the claims would constitute an undue burden to the PTO. Accordingly, modification and withdrawn of the Restriction Requirement are respectfully requested.

It is believed that no fee is required for consideration of this Amendment. If, however, any fee is required, the Examiner is authorized to charge any such fee to our Deposit Account No. 12-1095.

Dated: April 16, 2002

Respectfully submitted,

By *Lance Y. Liu*
Lance Y. Liu
Registration No.: 45,379
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorneys for Applicants

363661_1.DOC

MARKED-UP COPY OF AMENDED CLAIM:

39. (Amended) A porous material for use in the catalytic conversion of exhaust gases comprising a carrier including a first porous structure, an oxidation catalyst capable of catalyzing the oxidation of NO to NO₂ in the presence of oxygen and catalyzing the oxidation of a reducing agent, said oxidation catalyst enclosed within said first porous structure, said first porous structure including pores having dimensions such that said reducing agent is substantially sterically prevented from contacting said oxidation catalyst, whereby said oxidation catalyst primarily catalyzes said oxidation of said NO to NO₂ as compared to said oxidation of said reducing agent during the catalytic conversion of said exhaust gases.